

**Introduced by Senator Sher**

February 21, 2003

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An act to ~~add Section 41821.4 to~~ amend Section 14581 of, to add Section 41821.4 to, to add Chapter 5.7 (commencing with Section 42355) to, and to repeal Chapter 5.4 (commencing with Section 42290) of Part 3 of Division 30 of, the Public Resources Code, relating to solid waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 646, as amended, Sher. Solid waste ~~report~~.

(1) *The existing California Beverage Container Recycling and Litter Reduction Act requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation, for each beverage container, as defined, sold or transferred, for deposit in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department to pay refund values, processing payments, and for other purposes, including the annual expenditure of \$300,000 until January 1, 2005, pursuant to a cooperative agreement with Keep California Beautiful, to conduct a statewide public education campaign to prevent and clean up beverage container litter.*

*This bill would increase the amount of the annual expenditure for that education campaign to \$500,000 and would extend the date of that campaign to January 1, 2010, thereby making an appropriation. The bill would make the authorization for this program inoperative on July 1, 2009.*

(2) Existing law, the California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program.

Existing law requires a city, county, or regional agency to submit an annual report to the board summarizing its progress in diverting solid waste from disposal. Existing law requires the board to adopt a model ordinance for adoption by any local agency relating to adequate areas for collecting and loading recyclable materials in development projects. Local agencies are required to adopt an ordinance, not later than a specified date, relating to adequate areas for collecting and loading recyclable materials in development projects.

This bill would additionally require that the report include a statement as to whether the city, county, or agency has complied with the requirement to adopt an ordinance and to include a copy of that ordinance. By imposing new requirements on local agencies with respect to reporting requirements under the act, the bill would impose a state-mandated local program.

~~(2)–~~

*(3) The California Integrated Waste Management Act of 1989 requires every manufacturer that manufactures plastic trash bags of a specified thickness to ensure that a trash bag intended for sale in this state contains a quantity of recycled plastic postconsumer material equal to at least 10% of the weight of the bag, or that at least 30% of the weight of the material used in all of the manufacturer's plastic products intended for sale in this state is recycled plastic postconsumer material, and requires that manufacturers of plastic trash bags comply with specified certification and reporting requirements for the use of recycled plastic postconsumer material.*

*This bill would repeal those provisions governing content requirements for the manufacture of plastic trash bags, and related certification and reporting requirements. The bill would prohibit a person from selling a plastic bag that is labeled as “biodegradable” or “compostable” unless the plastic bag meets the definitions specified in the bill and the American Society for Testing and Materials (ASTM) standard specifications for biodegradable and compostable plastics published by the board.*

*The bill would require a manufacturer or supplier, as defined, upon the request of the board or the public, to submit information and documentation demonstrating compliance with the bill's requirements*



or a certification from an independent organization authorized by the board to demonstrate compliance.

The bill would prohibit a supplier or manufacturer, on and after January 1, 2006, from selling a plastic bag in this state that contains a regulated metal, as defined, and from releasing any regulated metal during the production, use, or disposal of a plastic bag. The bill would also prohibit a supplier or manufacturer from providing to any state agency a bid for any plastic bag that does not comply with the bill's requirements.

The bill would require the board to review, determine, publish, and update the ASTM Standard Specifications for biodegradable and compostable plastics and maintain and publish a list of independent organizations authorized by the board to certify compliance.

The bill would authorize the board to assess a civil penalty upon any person violating the bill's requirements in an amount of not more than \$50,000 and would require the board to deposit these penalties into the Plastic Bag Labeling Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury, for expenditure the board, upon appropriation by the Legislature, for the board's costs of implementing the bill.

(4) The bill would require the California Integrated Waste Management Board, not later than January 1, 2006, utilizing existing resources, to report to the Legislature on steps the state should take to effectively increase the recovery and reuse of film plastic.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 14581 of the Public Resources Code is*  
2 *amended to read:*

3 14581. (a) Subject to the availability of funds, and pursuant  
4 to subdivision (c), the department shall expend the money set aside

1 in the fund, pursuant to subdivision (c) of Section 14580 for the  
2 purposes of this section:

3 (1) On and after July 1, 2002, twenty-six million five hundred  
4 thousand dollars (\$26,500,000) shall be expended annually for the  
5 payment of handling fees required pursuant to Section 14585.

6 (2) Fifteen million dollars (\$15,000,000) shall be expended  
7 annually for payments for curbside programs and neighborhood  
8 dropoff programs pursuant to Section 14549.6.

9 (3) (A) Fifteen million dollars (\$15,000,000), plus the  
10 proportional share of the cost-of-living adjustment, as provided in  
11 subdivision (b), shall be expended annually in the form of grants  
12 for beverage container litter reduction programs and recycling  
13 programs issued to either of the following:

14 (i) Certified community conservation corps that were in  
15 existence on September 30, 1999, or that are formed subsequent  
16 to that date, that are designated by a city or a city and county to  
17 perform litter abatement, recycling, and related activities, if the  
18 city or the city and county has a population, as determined by the  
19 most recent census, of more than 250,000 persons.

20 (ii) Community conservation corps that are designated by a  
21 county to perform litter abatement, recycling, and related  
22 activities, and are certified by the California Conservation Corps  
23 as having operated for a minimum of two years and as meeting all  
24 other criteria of Section 14507.5.

25 (B) Any grants provided pursuant to this paragraph shall not  
26 comprise more than 75 percent of the annual budget of a  
27 community conservation corps.

28 (4) (A) Ten million five hundred thousand dollars  
29 (\$10,500,000) may be expended annually for payments of five  
30 thousand dollars (\$5,000) to cities and ten thousand dollars  
31 (\$10,000) for payments to counties for beverage container  
32 recycling and litter cleanup activities, or the department may  
33 calculate the payments to counties and cities on a per capita basis,  
34 and may pay whichever amount is greater, for those activities.

35 (B) Eligible activities for the use of these funds may include,  
36 but are not necessarily limited to, support for new or existing  
37 curbside recycling programs, neighborhood dropoff recycling  
38 programs, public education promoting beverage container  
39 recycling, litter prevention, and cleanup, cooperative regional

efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds may not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the Department of Conservation. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(5) ~~(A)~~ One million five hundred thousand dollars (\$1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

~~(B) Up to a total of six million eight hundred forty thousand dollars (\$6,840,000) shall be paid to the City of San Diego, between January 1, 2000, and January 1, 2004, for a curbside recycling program conducted pursuant to Section 14549.7.~~

(6) (A) The department shall expend the amount necessary to pay the processing payment and supplemental processing payment established pursuant to Sections 14575 and 14575.5 and pay processing fee rebates pursuant to Section 14575.2. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a

1 processing payment and processing fee is calculated pursuant to  
2 Section 14575, or for which a processing payment is calculated  
3 pursuant to Section 14575 and a voluntary artificial scrap value is  
4 calculated pursuant to Section 14575.1, into which account shall  
5 be deposited all of the following:

6 (i) All amounts paid as processing fees for each beverage  
7 container material type pursuant to Section 14575.

8 (ii) Funds equal to the difference between the amount in  
9 subparagraph (i) and the amount of the processing payments  
10 established in subdivision (b) of Section 14575, and adjusted  
11 pursuant to paragraphs (2) and (3) of subdivision (c) of, and  
12 subdivision (f) of, Section 14575, to reduce the processing fee to  
13 the level provided in subdivision (f) of Section 14575, or to reflect  
14 the agreement by a willing purchaser to pay a voluntary artificial  
15 scrap value pursuant to Section 14575.1.

16 (iii) Funds equal to an amount sufficient to pay the total amount  
17 of the supplemental processing payments established pursuant to  
18 Section 14575.5.

19 (B) Notwithstanding Section 13340 of the Government Code,  
20 the money in each processing fee account is hereby continuously  
21 appropriated to the department for expenditure without regard to  
22 fiscal years, for purposes of making processing payments and  
23 supplemental processing payments, and reducing processing fees,  
24 pursuant to Sections 14575 and 14575.5 and paying processing fee  
25 rebates pursuant to Section 14575.2.

26 (7) Up to five million dollars (\$5,000,000) may be annually  
27 expended by the department for the purposes of undertaking a  
28 statewide public education and information campaign aimed at  
29 promoting increased recycling of beverage containers.

30 (8) Up to three million dollars (\$3,000,000) shall be expended  
31 annually for the payment of quality glass incentive payments  
32 pursuant to Section 14549.1.

33 (9) (A) ~~Three hundred thousand dollars (\$300,000)~~ *Five*  
34 *hundred thousand dollars (\$500,000)* shall be expended annually  
35 by the department, until January 1, ~~2005~~ *2010*, pursuant to a  
36 cooperative agreement entered into between the department and  
37 Keep California Beautiful, a nonprofit 501(c)(3) organization  
38 chartered by the State of California in 1990, for the purpose of  
39 conducting statewide public education campaigns aimed at  
40 preventing and cleaning up beverage containers and related litter.

1 The campaigns shall include, but not be limited to, coordination  
2 of Keep California Beautiful month.

3 (B) Prior to making an expenditure pursuant to this paragraph,  
4 the department shall enter into a cooperative agreement with Keep  
5 California Beautiful.

6 (C) As part of the cooperative agreement, Keep California  
7 Beautiful shall provide the department with an annual campaign  
8 plan and budget, and a report of previous year campaign activities.

9 (D) *This paragraph shall become inoperative on July 1, 2009.*

10 (10) Up to ten million dollars (\$10,000,000) may be expended  
11 annually by the department, until January 1, 2007, to issue grants  
12 for recycling market development and expansion-related activities  
13 aimed at increasing the recycling of beverage containers,  
14 including, but not limited to, the following:

15 (A) Research and development of collecting, sorting,  
16 processing, cleaning, or otherwise upgrading the market value of  
17 recycled beverage containers.

18 (B) Identification, development, and expansion of markets for  
19 recycled beverage containers.

20 (C) Research and development for products manufactured  
21 using recycled beverage containers.

22 (D) Payments to California manufacturers who recycle  
23 beverage containers that are marked by resin type identification  
24 codes “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.

25 (11) Up to ten million dollars (\$10,000,000) may be transferred  
26 on a one-time basis by the department to the Recycling  
27 Infrastructure Loan Guarantee Account, for expenditure pursuant  
28 to Section 14582.

29 (b) The fifteen million dollars (\$15,000,000) that is set aside  
30 pursuant to paragraph (3) of subdivision (a) is a base amount that  
31 the department shall adjust annually to reflect any increases or  
32 decreases in the cost of living, as measured by the Department of  
33 Labor, or a successor agency, of the federal government.

34 (c) (1) The department shall review all funds on a quarterly  
35 basis to ensure that there are adequate funds to make the payments  
36 specified in this section and the processing fee reductions required  
37 pursuant to Section 14575.

38 (2) If the department determines, pursuant to a review made  
39 pursuant to paragraph (1), that there may be inadequate funds to  
40 pay the payments required by this section and the processing fee



1 reductions required pursuant to Section 14575, the department  
2 shall immediately notify the appropriate policy and fiscal  
3 committees of the Legislature regarding the inadequacy.

4 (3) On or before 180 days after the notice is sent pursuant to  
5 paragraph (2), the department may reduce or eliminate  
6 expenditures, or both, from the funds as necessary, according to  
7 the procedure set forth in subdivision (d).

8 (d) If the department determines that there are insufficient  
9 funds to make the payments specified pursuant to this section and  
10 Section 14575, the department shall reduce all payments  
11 proportionally.

12 (e) Prior to making an expenditure pursuant to paragraph (7) of  
13 subdivision (a), the department shall convene an advisory  
14 committee consisting of representatives of the beverage industry,  
15 beverage container manufacturers, environmental organizations,  
16 the recycling industry, nonprofit organizations, and retailers, to  
17 advise the department on the most cost-effective and efficient  
18 method of the expenditure of the funds for that education and  
19 information campaign.

20 *SEC. 2.* Section 41821.4 is added to the Public Resources  
21 Code, to read:

22 41821.4. On or before August 1, 2004, a city, county, or  
23 regional agency shall include, in the annual report required  
24 pursuant to Section 41821, a statement as to whether the city,  
25 county, or agency has complied with the requirements of  
26 subdivision (a) or (b) of Section 42911 and a copy of that  
27 ordinance.

28 ~~*SEC. 2.*~~

29 *SEC. 3.* Chapter 5.4 (commencing with Section 42290) of  
30 Part 3 of Division 30 of the Public Resources Code is repealed.

31 *SEC. 4.* Chapter 5.7 (commencing with Section 42355) is  
32 added to Part 3 of Division 30 of the Public Resources Code, to  
33 read:

34 *CHAPTER 5.7. BIODEGRADABLE AND COMPOSTABLE PLASTIC BAGS*

35  
36  
37 42355. For purposes of this chapter, the following definitions  
38 shall apply:

39 (a) "ASTM" means the American Society for Testing and  
40 Materials.



(b) “ASTM standard specifications for biodegradable and compostable plastics” means a definition found in the Style and Form Guide for ASTM Standards and does not include an ASTM Standard Guide, a Standard Practice, or a Standard Test Method.

(c) “Biodegradable plastic” means a degradable plastic in which the degradation results from the action of naturally occurring microorganisms, including bacteria, fungi, and algae.

(d) “Compostable plastic” means a plastic that undergoes degradation by biological processes during composting to yield carbon dioxide, water, inorganic compounds, and biomass at a rate consistent with other known compostable materials and that leaves no visible, distinguishable, or toxic residue.

(e) “Manufacturer” means a person, firm, association, partnership, or corporation that produces a plastic bag.

(f) “Regulated metal” means lead, mercury, cadmium, or hexavalent chromium.

(g) “Specification” means an explicit set of requirements to be satisfied by a material, product, system, or service.

(h) “Supplier” means a person who does one or more of the following:

(1) Sells, offers for sale, or offers for promotional purposes, a plastic bag that is used by any other person to contain a product.

(2) Takes title to a plastic bag produced either domestically or in a foreign country, that is purchased for resale or promotional purposes.

42356. (a) (1) A person shall not sell a plastic bag that is labeled as “biodegradable” unless the plastic bag meets the definition of biodegradable specified in this chapter and meets the specifications for biodegradable plastics specified in the ASTM standard specifications for biodegradable plastics published by the board pursuant to subdivision (a) of Section 42359.

(2) A person shall not sell a plastic bag that is labeled as “compostable” unless the plastic bag meets the definition of compostable specified in this chapter and meets the specifications for compostable plastics specified in the ASTM standard specifications for compostable plastics published by the board pursuant to subdivision (a) of Section 42359.

(b) (1) A manufacturer or supplier, upon the request of the board or a member of the public, shall submit to the board or that member information and documentation demonstrating

1 *compliance with this chapter, in a format that is easy to understand*  
2 *and scientifically accurate.*

3 (2) A manufacturer or supplier may instead of submitting  
4 information and documentation under paragraph (1) supply a  
5 certification from an independent organization authorized by the  
6 board pursuant to paragraph (3) of subdivision (a) of Section  
7 42359 to demonstrate compliance with this chapter.

8 42357. (a) On and after January 1, 2006, a supplier or  
9 manufacturer shall not sell a plastic bag in this state that contains  
10 a regulated metal.

11 (b) On and after January 1, 2006, a supplier or manufacturer  
12 of a plastic bag shall not release any regulated metal during the  
13 production, use, or disposal of a plastic bag.

14 (c) A supplier or manufacturer shall not provide to a state  
15 agency a bid for any plastic bag that does not comply with this  
16 chapter.

17 42359. (a) The board shall do all of the following:

18 (1) Review, determine, and publish the ASTM Standard  
19 Specifications for biodegradable and compostable plastics for  
20 persons engaged in the sale and manufacture of plastic bags in this  
21 state.

22 (2) On or before January 1, 2013, and at least once every 10  
23 years thereafter, update the specifications specified in paragraph  
24 (1).

25 (3) Maintain and publish a list of independent organizations  
26 authorized by the board to certify compliance with this chapter.

27 (b) (1) The board may assess a civil penalty upon a person  
28 violating this chapter in an amount of not more than fifty thousand  
29 dollars (\$50,000) for each violation, pursuant to a notice and  
30 hearing procedure that conforms with Chapter 5 (commencing  
31 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
32 Government Code.

33 (2) The total annual fines or penalties assessed upon a violator  
34 of this chapter shall not exceed one hundred thousand dollars  
35 (\$100,000).

36 (3) The board shall deposit all penalties paid pursuant to this  
37 section into the Plastic Bag Labeling Account, which is hereby  
38 created in the Integrated Waste Management Fund in the State  
39 Treasury. The moneys deposited in the Plastic Bag Labeling

Account shall be expended by the board, upon appropriation by the Legislature, for the board's costs of implementing this chapter.

SEC. 5. (a) The Legislature finds and declares that on June 17, 2003, the California Integrated Waste Management Board accepted a report entitled, "Plastics White Paper: Optimizing Plastics Use, Recycling, and Disposal in California," which contains various findings and recommendations designed to improve the state's management of discarded plastics, including film plastic.

(b) The California Integrated Waste Management Board shall, not later than January 1, 2006, utilizing existing resources, report to the Legislature on steps the state should take to effectively increase the recovery and reuse of film plastic.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CORRECTIONS

Title — Line 1.